ERRATA TO EAST ALTAMONT ENERGY CENTER ENVIRONMENTAL ASSESSMENT

1.0 BACKGROUND

On 29 March 2001, East Altamont Energy Center, LLC (EAEC LLC), a wholly owned subsidiary of Calpine Corporation, filed an Application for Certification (AFC) for a nominal 1,100 MW power plant called the East Altamont Energy Center (EAEC). The applicant requested an interconnection of the power plant with the Western Area Power Administration's (Western) transmission system at its Tracy Substation. As a Federal agency, Western is required to evaluate this request as part of the National Environmental Policy Act (NEPA).

Western's NEPA process was coordinated with the California Energy Commission (CEC) permitting process to streamline the environmental review and make it easier for the public to follow one process instead of two. Western and the CEC jointly published the EAEC Final Staff Assessment/Environmental Assessment (FSA/EA) on 19 September 2002. Subsequently, the CEC Staff has issued five errata (dated 1, 10, 15, 21, and 29 October 2002) to correct errors and omissions to the FSA/EA document and to present revised conditions based on discussions between EAEC LLC and CEC Staff in workshop settings. In addition, EAEC LLC and CEC Staff have filed testimony and briefs explaining their position on different issues. Most of the referenced errata and EAEC LLC's testimony are available on the CEC's web site at *http://www.energy.ca.gov/sitingcases/eastaltamont/index.html*.

The CEC errata and EAEC LLC testimony contain additional information not included in the FSA/EA issued for the project. Western has reviewed this new information and concluded that some information presented in its Final EA needs to be revised to reflect new conditions proposed for the project and Western's conclusions about the project's effects on air, noise, water, and visual resources. Western is issuing these errata to its EA to document changes made to the Final EA and present its conclusions. This errata report will be available upon Western's issuance of a preliminary determination on whether or not to prepare an environmental impact statement.

Section 2 of this document identifies and briefly summarizes the sources of information used to develop Western's errata and conclusions. Section 3 discusses the issues pertinent to these errata and the conclusions that Western has drawn from the CEC Staff's errata and EAEC LLC's briefs. Sections 4 through 7 describe the actual errata to be incorporated into the Western EA for air quality, visual resources, visible plumes, and soils and water resources. Finally, section 8 lists references.

2.0 CHRONOLOGY AND SUMMARY OF CEC STAFF ERRATA AND EAEC LLC INFORMATION

Western has reviewed all CEC Staff errata, testimony from all parties participating in workshops and hearings, and post hearing briefs submitted by EAEC LLC. This section describes the CEC Staff errata and EAEC LLC's information considered by Western in preparing this EA Errata.

2.1 SUMMARY OF NEW INFORMATION FOUND IN CEC STAFF ERRATA

The CEC Staff's 1 October 2002 errata (CEC 2002a) added the following conditions to the FSA/EA:

- Added changes to LORS COMPLIANCE for NOISE AND VIBRATION that provide clarification of CEC Staff's intent.
- Added Condition of Certification WORKER-SAFETY-3 requiring the project owner to enter into an agreement with Alameda County for fire protection services, pay $2,500,000 for the relocation of Fire Station 8, and pay $500,000 for enhanced emergency response services.
- Added elements to Construction and Operations Security Plan, COM-9, including background checks for site personnel and vendors and the project owner's preparation of a Vulnerability Assessment.

A 10 October 2002 errata issued by CEC Staff (CEC 2002b) provides proposed changes for the AIR QUALITY and WATER AND SOILS conditions of certification.

A 15 October 2002 errata issued by the CEC Staff (CEC 2002c) reflects an agreement reached by EAEC LLC and the CEC Staff on NOISE AND VIBRATION.

A 21 October 2002 Errata (CEC 2002d) provided revised conditions for WATER AND SOILS RESOURCES. EAEC LLC did not accept these errata.

A 29 October 2002 Errata (CEC 2002e) provided CEC Staff and EAEC LLC mutually agreed upon conditions in the following areas:

- Visible Plume Impacts Analysis – errata and changes to proposed conditions of certification, agreed to by all parties present at hearings;
- Visual Resources – corrected conceptual landscaping plan and visual simulations.

CEC Staff also provided further explanation of the requirements added to COM-9 per staff's errata dated October 1, 2002.

2.2 SUMMARY OF INFORMATION FOUND IN EAEC LLC'S BRIEFS

After the 15 October 2002 errata, AIR QUALITY, VISUAL RESOURCES, and WATER AND SOILS RESOURCES and COM-9 conditions remained in dispute between EAEC LLC and the CEC Staff. Evidentiary Hearings were conducted on 15, 16, 21, and 22 October 2002 resulting in a set of conditions proposed by EAEC LLC in the areas in dispute. The conditions are contained in documentation titled Testimony in Support of Application for Certification for the East Altamont Energy Center dated October 2002 (EAEC 2002a). This testimony and hearing transcripts are available on the CEC web site.

Conditions accepted or proposed by EAEC LLC are discussed in its post-hearing briefs (EAEC 2002b, 2002c, 2002d, 2002e). The first post-hearing brief (EAEC 2002b) provides five attachments under a separate cover. These attachments are listed below. Attachment A includes suggested language for areas of agreement between CEC Staff and EAEC LLC. Attachments B through E include text and conditions of certification to resolve issues with either CEC Staff or intervenors as follows:

- Attachment B. BIOLOGICAL RESOURCES conditions (in response to concerns of intervenors);
- Attachment C. HAZARDOUS MATERIALS conditions (in response to concerns of intervenors);
- Attachment D. WORKER SAFETY conditions (in response to concerns of intervenors about adequate fire protection);
- Attachment E. WATER AND SOILS RESOURCES conditions (in response to CEC concerns about use of fresh water).

EAEC LLC is in agreement with CEC Staff on the conditions presented in Attachments B, C, and D. The areas of disagreement between EAEC LLC and CEC staff are three of the water conditions that are contained in Attachment E.

EAEC LLC's Final Reply Brief (EAEC 2002e) states that EAEC LLC has reached agreement with the Staff regarding every proposed licensing condition, except for the following:

- COM-9 (which was introduced by the Staff after the deadline for issuing the FSA and after the deadline for filing testimony;
- Certain AIR QUALITY conditions;
- Portions of SOIL&WATER 5, 6 and 7;
- The significance of visual impacts.

The actual conditions likely to be approved by CEC and included in the Presiding Members' Proposed Decision will not necessarily match either the FSA or the revisions included in these Errata. However, the conditions that are approved by the CEC are likely to be within the parameters established by the conditions in the FSA and those included in these Errata.

3.0 DISCUSSION OF RESOURCE ISSUES

Western has reviewed EAEC LLC's testimony as described and presented to the CEC and discussed at the evidentiary hearings and post-hearing briefs for AIR QUALITY, WATER AND SOILS RESOURCES, and VISUAL RESOURCES. Western's EA Errata in the areas of dispute and the justification for additional proposed conditions are provided in the following sections.

3.1 AIR QUALITY

The FSA/EA included several conditions of certification to address local concerns and their cumulative impacts in response to public comment. The FSA/EA cumulative impact analysis shows that combined emissions from the EAEC, the Tesla Power Project, the Tracy Peaker, the Tracy Biomass plant, the Owens Brockway facility, and the Tracy Hills, South Schulte, and Mountain House developments could cause significant PM_{10} air quality impacts in the local area. The CEC Staff maintains that the mitigation agreement with the San Joaquin Valley Air Pollution Control District (SJVAPCD) and proposed emissions reductions credits (ERC) would not sufficiently mitigate local PM_{10} emissions.

CEC Staff's 10 October 2002 errata (CEC 2002b) add simplified Conditions of Certification for facility construction and a protocol to include the recent EAEC Air Quality Mitigation Settlement Agreement with the SJVAPCD. The CEC conditions mandate a separate mitigation manager dedicated just to fugitive dust, and a number of measures such as the use of soot filters for all diesel engines over 100 horsepower, shutting down the construction when wind speeds exceed 15 miles per hour, and mandated frequencies for watering.

EAEC LLC's position is supported by the SJVAPCD's October 10, 2002 letter to the Commission *which* says: "With compliance with the conditions in the project's final determination of compliance and implementation of the applicant's air quality mitigation settlement agreement with the District, the District believes that the EAEC project will not result in significant unmitigated air quality impacts in the San Joaquin Valley air basin." Testimony by Gary Rubenstein at the Evidentiary Hearings in October 2002 states that the mitigation agreement between San Joaquin Air Quality District and the EAEC adequately mitigates air quality impacts. He further states that there is insufficient evidence to support the CEC Staff's cumulative impact analysis.

With the application of mitigation measures proposed by EAEC LLC in agreement with the SJVAPCD, along with the finding of no significant air quality impacts from the Bay Area Air Pollution Control District, Western has concluded that the project would not result in significant cumulative air quality impacts.

While the CEC Staff conditions provide additional CEC oversight to further protect local air quality, Western notes there is credible testimony that supports the EAEC LLC's position that impacts would be mitigated working through air pollution control districts.

EAEC LLC proposed that conditions of certification AQ-SC1 – AQ-SC4 be revised to refer to a Construction Mitigation Manager (CMM) rather than an Air Quality Construction Mitigation Manager (AQCMM) (EAEC 2002a). EAEC LLC requests that CEC delete AQ-SC2 and AQ-SC3 requirements for reporting construction planned for the following two months and the reference to on-site monitoring. EAEC LLC requests that the conditions be revised to identify the objectives of the dust mitigation program. EAEC LLC noted AQ-SC2 needs to include a summary of complaints related to construction activities and the actions taken to address each compliant. Also, EAEC LLC's brief states that AQ-SC3 should be revised to require notification of the residents within one-half mile of the project site of the commencement of construction and provide a phone number for use by the public to report any undesirable dust conditions associated with the construction project. Western has concluded that with the adoption of these revisions pertaining to construction monitoring and mitigation, the conditions are adequate to mitigate the project's potential significant impacts to air quality from construction.

EAEC LLC proposes two conditions be adopted in lieu of conditions AQSC-5 and AQSC-6 in the FSA/EA (EAEC 2002f). AQ-SC5 is a mitigation condition to implement the agreement EAEC LLC negotiated with the SJVAPCD (EAEC 2002a). In addition, in response to concerns raised by members of the community at public workshops, EAEC LLC proposed a mitigation condition that ensures public participation in the SJVAPCD's decision making process regarding the implementation of the mitigation program (EAEC 2002f). Western has concluded that with the adoption of the AQ-SC5 and AQ-SC6 published in the FSA/EA or the new AQ-SC5 (referred to as AQ-SC5a in this Errata) proposed by EAEC LLC, the conditions are adequate to mitigate the project's potential significant impacts to the state and Federal ozone, PM10, and PM2.5 air quality standards in the San Joaquin air basin. The air quality errata listed in Section 4 are based on the EAEC LLC's proposed conditions. If the conditions included in the FSA/EA or the various errata published to date by the CEC are followed, the conditions listed in these Errata would be met. A mitigation ensuring public participation in the SJVAPCD decision making process is not related to Western's significance conclusions, but would enhance the implementation of the mitigation program.

3.2 VISUAL RESOURCES

The CEC Staff in its 10 and 29 October 2002 Errata proposed VISUAL RESOURCE conditions of certification. Western has reviewed the changes and with the errata described in Section 5.0 incorporates the new conditions into the EA.

Based on information in testimony presented by EAEC LLC at the evidentiary hearings, and the finding by Alameda County that the proposed facility is in compliance with County standards, Western has concluded that the existing level of visual quality in the project area is moderately low. The project area contains an unusually high concentration of major infrastructure facilities, which are now a highly visible element of the overall landscape pattern including large-scale agriculture, high levees, Tracy Substation, and wind turbines. The only exception is the view from Byron Bethany Road, which is

moderate to moderately high. The project would be large and highly visible, but it would have an orderly appearance. Its surfaces would have colors and finishes that minimize their reflectivity and maximize their visual absorption into the setting. The project would be surrounded by multiple rows of dense landscaping designed to integrate the project facilities into their overall setting. It would not substantially alter the character of the setting, which is a very highly altered landscape of large-scale agriculture and infrastructure. Based on the review of this information, and its own visual inspection of the proposed site and vicinity confirming the presence of listed facilities, Western has concluded that the project would not have a significant impact on visual resources in the area.

In its 29 October memorandum, CEC Staff included streamlined conditions of certification for visible plumes. Western has adopted these changes.

3.3 WATER AND SOILS RESOURCES

Since the issuance of the FSA/EA, Western and the CEC Staff have determined that condition of certification SOIL & WATER-10 is not needed. EAEC LLC has proposed modification to SOIL & WATER Conditions 5, 6, and 7 (EAEC 2002b, Attachment E).

EAEC LLC's SOIL & WATER-5 states that fresh water from BBID would be used when recycled water is not available. BBID has determined that it has adequate supplies of water from existing fresh water sources to serve the projected demands within its service area plus the projected demands of the EAEC. BBID is also actively pursuing the development of recycled water to further augment its available supplies. Initially, only fresh water would be supplied to the EAEC, but in the future, BBID intends to supply recycled water.

Condition of Certification SOIL & WATER-6 in the FSA/EA requires a written agreement between BBID and the EAEC for recycled water service and evidence prior to plant operation that the water supply pipeline has been built.

EAEC LLC maintains that given the current status of the Mountain House Community Service District (MHCSD) development, both MHCSD and BBID lack sufficient information to enter into a service agreement as required in SOIL & WATER-6. Instead of a written agreement, on 9 July 2002, EAEC LLC and BBID entered into a Memorandum of Understanding (MOU), that describes, among other matters, the role of each entity in the future supply of recycled water. Under the terms of the MOU, BBID agrees to develop recycled water to the maximum feasible extent and the applicant agrees to use recycled water to the maximum feasible extent. The MOU provides that BBID and the EAEC would enter into a detailed service agreement prior to construction of the East Altamont Energy Center that is consistent with the terms of the MOU. This logic is the basis of EAEC LLC's SOIL & WATER-6.

Condition of Certification SOIL & WATER-7 in the FSA/EA requires the EAEC to include certain design features to ensure maximum use of recycled water. EAEC LLC's

SOIL & WATER-7 contains some of the requested design features. EAEC LLC maintains that provisions are unjustified for the pipeline be sized to meet the peak demands, for additional onsite storage, and to recycle stormwater discharges to meet the water demands (EAEC 2002a).

Based on a review of information provided after the issuance of the FSA/EA, Western has concluded that based on the conditions of certification SOIL & WATER-5, 6 and 7 (referred to as SOIL & WATER-5a, 6a, and 7a in this Errata) proposed by EAEC LLC, the project would not have significant adverse cumulative effects to local water supply. CEC Staff's proposed soil and water resources conditions of certification in the 21 October 2002 errata (CEC 2002d) would also be acceptable.

4.0 AIR QUALITY RESOURCES ERRATA

Page 5.1-39, at the end of the *Conclusions Section*, add a new section as follows:

Western Conclusions

With the application of mitigation measures proposed by EAEC LLC in agreement with the SJVAPCD, along with the issuance of a final determination of compliance from the Bay Area Air Pollution Management District, which states that the proposed project is expected to comply with all applicable District rules and regulations, or the application of measures proposed by the CEC Staff, Western has concluded that the project will not result in direct, indirect, or cumulative significant air quality impacts.

These errata reflect changes to conditions proposed by EAEC LLC for construction-related monitoring and mitigation. Western has concluded that with either the adoption of these condition modifications or the modification proposed by the CEC Staff in its errata, the construction of the project would not result in significant air quality impacts.

Western has concluded that the project would not result in a significant air quality impact regardless of whether the CEC imposes a 5ppmv or 10ppmv ammonia slip limit.

Page 5.1-40 through 5.1-44 Replace the existing conditions with the following *AQ-SC1a through AQ-SC5a*: (Bolded inserts and strikeouts show EAEC LLC's differences with language included in the 10 October 2002 CEC Staff errata memorandum.)

AQ-SC1a The project owner shall submit the resume(s) **of their selected Construction Mitigation Manager(s) (CMM)** ~~each individual proposed to fill the designated Air Quality Construction Mitigation Manager (AQAQCMM) position~~ to the CEC Compliance Project Manager (CPM) for approval. One or more individuals may ~~hold this~~ **perform the duties associated with this** position. ~~The owner shall be responsible for funding the costs of the AQCMM, however the AQCMM shall be allowed to report directly to the CPM.~~ The ~~AQCMM~~ **CMM** shall preferably have ~~a minimum of eight~~

~~years~~ experience as follows, however the CPM shall consider all resumes submitted regardless of experience:

- ~~five years construction experience as a subcontractor or general contractor.~~
- ~~An engineering degree or an additional five years construction experience.~~
- ~~one year e~~**C**onstruction project management**, safety compliance or environmental compliance** experience.
- ~~two years air quality assessment experience.~~
- **Current certification by the California Air Resources Board for Visible Emission Evaluation (VEE), or a commitment to obtain certification prior to the commencement of construction.**

The ~~AQCMM~~ **CMM** shall be responsible for implementing all mitigation measures related to construction equipment combustion emissions, construction monitoring and enforcing the effectiveness of construction mitigation measures as outlined in Conditions of Certification **AQ-SC3** and **AQ-SC4**. The ~~AQCMM~~ **CMM** shall be onsite during all construction activities, until no longer deemed necessary by the CPM. The ~~AQCMM~~ **CMM** shall be granted access to all areas of the main and linear facility construction sites. The ~~AQCMM~~ **CMM** shall have the authority to stop specific construction activities on either the main or the linear facility construction sites as specified in Condition **AQ-SC3** (3) below. The ~~AQCMM~~ **CMM** may not be terminated prior to the cessation of construction activities unless approval is granted by the CPM.
Verification The project owner shall submit the ~~AQCMM~~ **CMM** resume(s) to the CPM for approval at least 60 days prior to site mobilization.

AQ-SC2a The project owner shall **submit** ~~ensure that the AQCMM submits directly~~ to the CPM for approval **(as part of the Monthly Compliance Report)**~~(and a copy to the project owner)~~ a report **prepared by the CMM** of all compliance actions taken germane to Conditions of Certification **AQ-SC3** and **AQ-SC4**. The report shall include, at a minimum, the following elements:
Fugitive Dust Mitigation Monthly Report

(see Condition of Certification AQ-SC3)

~~a. A summary of each of the operation(s) planned for the following two months which may result in the generation of fugitive dust. Each description shall include a schedule, on-site location details and a list of proposed fugitive dust mitigation measures.~~

~~b.~~ A summary of all mitigation activities implemented for each fugitive dust generating operation ~~identified in a previous report~~ **during the preceding month**. This report should provide a summary description of the operation, the mitigation measures implemented and the estimated effectiveness of each mitigation measure.

c. Details of all operation(s) requiring fugitive dust mitigation that are not identified in the previous report or the FDMP. Details shall include (at a

minimum) a description of the operation, the date, duration, mitigation measures implemented, and an explanation for not reporting the operation in a previous report (or in the FDMP).

d. Identification of any failures of mitigation measures and details of the actions taken to reduce the identified impacts and prevent future failures of those mitigation measures.

e. Identification of any observation by the ~~AQCMM~~ **CMM** of dust plumes beyond the property boundary of the main construction site or beyond an acceptable distance from the linear construction site and what actions (if any) where taken to abate the plume **which exceed any of the following criteria:**

f. Opacity of the dust plume exceeded 20% at any location;

g. A visible dust plume extended more than 100 yards from the dust generating activity;

h. For activities at the facility site, a visible dust plume extended beyond the fenced property boundary.

For each identified plume, the report shall identify the actions (if any) taken to abate the plume.

~~a. A summary of all ambient air monitoring data collected.~~

~~b.~~ A list of all complaints received by either the Owner/Operator, the CPM, or the Air Pollution Control District related to construction activities during the preceding month, and a list of actions taken to address each complaint received.

Diesel Construction Equipment Mitigation Monthly Report

(see Condition of Certification AQ-SC4)

a. Identification of any changes, as approved by the CPM, to the Diesel Construction Equipment Mitigation Plan from the initial report or the last monthly report including any new contractors and their diesel construction equipment.

b. A Copy of all receipts or other documentation indicating types and amounts of fuel purchased, from whom, where delivered and on what date for the main and related linear construction sites.

c. Identification and verification of all diesel engines required to meet EPA or CARB 1996 off-road diesel equipment emission standards.

d. The suitability of the use of a catalyzed diesel particulate filter for a specific piece of construction equipment is to be determined by a qualified mechanic or engineer who must submit a report through the ~~AQCMM~~ **CMM** to the CPM for approval. The identification of any suitability report initiated or pursued, or the completed report, should be included in the monthly report (in the month that it was completed) as should the verification of any subsequent installation of a catalyzed diesel particulate filter.

e. Identification of any observation by the ~~AQCMM~~ **CMM** of **dark** exhaust plumes emanating from diesel-fired construction equipment beyond the property boundary of the main construction site or beyond an acceptable distance from the

linear construction site and what actions (if any) where taken to abate the plume or future expected plumes.

Verification: The project owner shall ~~ensure that the AQCMM~~ submit~~s~~ directly to the CPM for approval ~~(and a copy to the project owner),~~ in the MCR, all compliance actions taken germane to Conditions of Certification **AQ-SC3** and **AQ-SC4**. The report is due within ten working days after the end of each reporting month.

AQ-SC3a The project owner shall ~~ensure that the AQCMM prepares and~~ submit~~s~~ to the CPM for approval, a Fugitive Dust Mitigation Plan (FDMP) **prepared by the CMM** that specifically identifies all fugitive dust mitigation measures that will be employed during the construction of the facility and related linears. The FDMP shall be administered on site by the **CMM** ~~full-time AQCMM~~.

~~The FDMP shall include a schedule of each operation planned for the first two months of the project that may result in the generation of fugitive dust, including location, source(s) of fugitive dust, and proposed mitigation measures specific to each operation/source.~~

The FDMP shall be designed to achieve all of the following objectives:

- **The opacity of fugitive dust plumes shall not be in excess of 20% at any location;**
- **There shall not be a visible dust plume that extends more than 100 yards from the activity that causes the dust plume to be generated; and**
- **For construction at the facility site, there shall not be a visible dust plume that extends beyond the fenced property boundary.**

The FDMP shall include provisions for notifying residents within one-half mile of the project site of the commencement of construction, and of a phone number for use by the public to report any undesirable dust conditions associated with project construction activities. These provisions, and the related notice and phone number, may be combined with the notice and phone number required by condition NOISE-1.

The construction mitigation measures that shall be addressed in the FDMP include, but are not limited to, the following:

- Identification of the employee parking area(s) and surface composition of those parking area(s)
- The frequency of watering of unpaved roads and all disturbed areas
- Application of chemical dust suppressants
- Gravel in high traffic areas
- Paved access aprons
- Sandbags to prevent run off
- Posted speed limit signs
- Wheel washing areas prior to large trucks leaving the project site

- Methods that will be used to clean tracked-out mud and dirt from the project site onto public roads

- For any transportation of solid bulk material

    1. Vehicle covers
    2. Wetting of the transported material
    3. Appropriate freeboard

- Methods for the stabilization of storage piles and disturbed areas

- Windbreaks at appropriate locations

- Additional mitigation measures to be implemented at the direction of the ~~AQCMM~~ **CMM** in the event that the standard measures fail to completely control dust from any activity and/or source

- The suspension of all earth moving activities under windy conditions **if standard and additional mitigation measures are ineffective**

- ~~On-site monitoring devices~~

In monitoring the effectiveness of all mitigation measures included in the FDMP, the ~~AQCMM~~ **CMM** shall take into account the following, at a minimum:

a. Onsite spot checks of soil moisture content at locations where soil disturbance, movement and/or storage is occurring; and

b. Visual observations of all construction activities.

The ~~AQCMM~~ **CMM** shall implement the following procedures for additional mitigation measures if the ~~AQCMM~~ **CMM** determines that the existing mitigation measures are not resulting in effective mitigation:

1. The ~~AQCMM~~ **CMM** shall direct more aggressive application of the existing mitigation methods **within fifteen (15) minutes** if standard mitigation measures are not effective.
2. The ~~AQCMM~~ **CMM** shall direct implementation of additional methods of mitigation if step #1 specified above fails to result in adequate mitigation **within thirty (30) minutes of the original determination.**
3. The ~~AQCMM~~ **CMM** shall **have the authority to** direct a temporary shutdown of the source of the emissions if step #2 specified above fails to result in adequate mitigation within one~~)~~**(1)** hour of the original determination. The activity shall not restart until circumstances leading to the problem have been addressed.

Verification: At least 30 days prior to site mobilization, the project owner shall provide the CPM with a copy of the FDMP for approval. Site mobilization shall not commence until the project owner receives approval of the FDMP from the CPM.

AQ-SC4a The project owner shall ensure that the ~~AQCMM~~ **CMM** prepares and submits to the CPM for approval, a Diesel Construction Equipment Mitigation Plan (DCEMP) that will specifically identify diesel engine mitigation measures that will be employed during the construction phase of the main and related linear construction sites. The

project owner shall ensure that the ~~AQCMM~~ **CMM** will be responsible for directing implementation of and compliance with all measures identified in the DCEMP. The DCEMP shall address, at a minimum, the following mitigation measures:

- Catalyzed diesel particulate filters (CDPF)
- CARB certified ultra low sulfur diesel fuel, containing 15 ppm sulfur or less (ULSD)
- Diesel engines certified to meet EPA and/or CARB 1996 or better off-road equipment emission standards
- Restricting diesel engine idle time, to the extent practical, to no more than ten minutes

The DCEMP shall include the following:

1. A list of all diesel-fueled, off-road, stationary or portable construction-related equipment to be used either on the main or the related linear construction sites. This list will initially be estimated and then subsequently be updated as specific contractors become identified. Prior to a contractor gaining access to the main or related linear construction sites, the project owner shall ensure that the ~~AQCMM~~ **CMM** submits to the CPM for approval, an update of this list including all of the new contractor's diesel construction equipment.
2. Each piece of construction equipment listed under item #1 of this condition must demonstrate compliance according to the following mitigation requirements, except as noted in items #3, #4 and #5 of this condition:

Engine Size (BHP)	1996 CARB or EPA Certified Engine	Required Mitigation
< 100	NA	ULSD
> or = 100	Yes	ULSD
> or = 100	No	ULSD and CDPF, if suitable as determined by the **CMM** ~~AQCMM~~

1. If the construction equipment is intended to be on-site for ten days or less, then none of the mitigation measures identified in item #2 of this condition are required.
2. The CPM may grant relief from the mitigation measures listed in item #2 of this condition for a specific piece of equipment if the ~~AQCMM~~ **CMM** can demonstrate that they have made a good faith effort to comply with the mitigation measures and that compliance is not possible.
3. Any implemented mitigation measure in item #2 of this condition may be terminated immediately if one of the following conditions exists, however the CPM must be informed within ten working days of the termination:
   3.1 The measure is excessively reducing normal availability of the construction equipment due to increased downtime for maintenance, and/or reduced power output due to an excessive increase in back pressure.

3.2 The measure is causing or is reasonably expected to cause significant engine damage.

3.3 The measure is causing or is reasonably expected to cause a significant risk to workers or the public.

4.4 Any other seriously detrimental cause which has approval by the CPM prior to the termination being implemented.

4. All contractors must agree to limit diesel engine idle time on all diesel-powered equipment to no more than ten **(10)** minutes, to the extent practical.

Verification: The project owner shall ensure that the ~~AQCMM~~ **CMM** submits a DCEMP to the CPM for approval at least **thirty (**30**)** days prior to site mobilization. The ~~AQCMM~~ **CMM** will update the initial DCEMP (if necessary), no less than ten **(10)** days prior to a specific contractor gaining access to either the main or related linear construction sites. The project owner shall ensure that the ~~AQCMM~~**CMM** notifies the CPM of any emergency termination within ten **(10)** working days of the termination.

AQ-SC5a Emission reductions will be obtained through implementation of measures identified in the Air Quality Mitigation Measure Plan for the East Altamont Energy Center. Prior to the commencement of construction, the project owner shall pay to the SJVUAPCD the sum of $1,002,480, which funds shall be deposited by the SJVUAPCD into an account dedicated to the implementation of emission reduction measures designed to mitigate the impacts of the East Altamont Energy Center project within the San Joaquin Valley Air Basin. The SJVUAPCD shall expend the funds in a manner designed to maximize the emission reductions achieved through such expenditures, and shall give preference to cost-effective measures which reduce emissions in or near the city of Tracy, San Joaquin County, and the Northern Region of the San Joaquin Valley Air Basin.

Verification: Within thirty (30) days after physical delivery of the first combustion turbine generator to the project site, the project owner shall submit to the CPM evidence of payment to the SJVUAPCD. Not more than 60 days after the end of each calendar year, commencing with the calendar year in which the mitigation payment is made, the East Altamont Energy Center shall, with the support of SJVUAPCD, submit to the CPM a report containing the following information:

- List of all projects funded through the East Altamont Energy Center air quality mitigation program during the prior calendar year
- Incentive payments and/or costs for each project funded during the prior calendar year
- Estimated annual emission reductions for each project funded during the prior calendar year
- Estimated cumulative annual emission reductions for all projects funded through the end of the prior calendar year

Such reports shall continue to be filed at the end of each calendar year, with the last report due after the end of the calendar year in which the last of the available mitigation funds have been expended.

At any time during the implementation of this program, the SJVUAPCD may request that the CPM approve expenditures for measures not included in the original Air Quality Mitigation Measure Plan for the East Altamont Energy Center submitted pursuant to this condition. Such request shall be accompanied by a description of the additional emission reduction measures and their anticipated costs and emission reductions, with a level of detail comparable to that contained in the original Air Quality Mitigation Measure Plan for the East Altamont Energy Center submitted pursuant to this condition.

Page 5.1.47 Delete AQ-SC7

Page 5.1.55 Insert AQ-25a

e) Ammonia (NH3) emission concentrations at P-1, P-2, and P-3 each shall not exceed ~~5~~ 10 ppmv, on a dry basis, corrected to 15% O2, averaged over any rolling 3-hour period…

5.0 VISUAL RESOURCES ERRATA

Page 5.12-26, add at the end of paragraph 3:

Western has concluded that the project would not result in a significant impact to visual resources for purposes of the Federal NEPA process.

Page 5.12-37, in the *Applicant Proposed Mitigation* section, add at the beginning of the first paragraph:

A landscaping plan, as included in CEC 2002d, developed in response to concerns raised by Federal and state wildlife agencies, is incorporated into the EA by reference. Also with this errata, Western incorporates by reference, Visual Resources Figures 2C, 3C, and 6C.

Page 5.12-38, first bullet in the *Mitigation of Impacts of Proposed Structures* section, add the following paragraph:

Western has concluded that the project would not result in significant impact to visual resources for purposes of the Federal NEPA process.

Page 5.12-42, *Conclusions* section, add a new section entitled *Western Conclusions,* as follows:

Western Conclusions

Based on information in testimony presented by EAEC LLC at the evidentiary hearings, Western has concluded that the existing level of visual quality in the project area is moderately low. The project area contains an unusually high concentration of major infrastructure facilities, which are now a highly visible element of the overall landscape pattern including large-scale agriculture, high levees, Tracy Substation, and wind turbines. The only exception is the view from Byron Bethany Road, which is moderate to moderately high. The project would be large and highly visible, but, it would have an orderly appearance. Its surfaces would have colors and finishes that minimize their reflectivity and maximize their visual absorption into the setting. The project would be surrounded by multiple rows of dense landscaping designed to integrate the project facilities into their overall setting. It would not substantially alter the character of the setting, which is a very highly altered landscape of large-scale agriculture and infrastructure. Based on the review of this information, the finding by Alameda County that the proposed facility is in compliance with County standards, and Western's own visual inspection of the proposed site and vicinity confirming the presence of listed facilities, Western has concluded that the project would not have a significant impact on visual resources in the area.

Page 5.12-43, *Proposed Conditions of Certification* section:

The CEC Staff in its 10 and 29 October 2002 Errata proposed visual resource conditions of certification. Western has reviewed the changes in the referenced errata memorandums and incorporates the new conditions into the EA.

6.0 VISIBLE PLUME ERRATA

Page 5.11b-17*, Proposed Conditions of Certification* section:

The CEC Staff in its 29 October 2002 Errata proposed visible plume conditions of certification. Western has reviewed the changes in the referenced errata memorandums and incorporates the new conditions into the EA.

7.0 WATER AND SOILS RESOURCES ERRATA

Page 5.14-44 and 5.14-4, add a new section to the *Conclusions* section as follows:

Western Conclusions

Based on a review of information provided after the issuance of the FSA/EA, Western has concluded that based on the conditions of certification SOIL&WATER-5, 6 and 7 proposed by EAEC LLC, or the conditions included in the FSA/EA and revised by the CEC Staff in its 21 October 2002 errata, the project would not have significant adverse cumulative effects to the local water supply..

Pages 5.14-48 Add SOILS&WATER 5a, 6a, 7a

SOILS&WATER 5a: Total water use by the project owner for the operation of EAEC and associated landscape irrigation shall not exceed a peak annual demand of 7,000 acre-feet and a peak daily flow of 9.2 MGD. The project owner shall use tertiary treated, recycled water as its primary water source for EAEC cooling and landscape irrigation requirements. The project owner shall use 100 percent of the tertiary treated water from MHCSD made available by BBID and as supplemented by any other tertiary treated water sources that may be developed by BBID to the maximum extent possible to meet EAEC's cooling tower makeup and landscape irrigation water requirements. Raw water supplied by BBID may be used during periods when daily allocation of recycled water is not sufficient to meet daily cooling and irrigation water demands of EAEC, or in the event of an unavoidable interruption in recycled water supply due to wastewater treatment plant upset or loss of conveyance. If BBID does not supply recycled water within 5 years of the commencement of project operations or if BBID does not supply at least 60 percent of the cooling tower makeup demands with recycled water within 20 years of the commencement of project operations, the Applicant shall demonstrate due diligence in the pursuit of options for recycled water supply.

Verification: In the annual compliance report, the project owner shall submit a water use summary report to the CPM that documents the previous year's actual raw and recycled water use. The water use summary shall be consistent with the requirements of Condition of Certification SOILS&WATER 8, providing daily meter readings of EAEC water use in comparison to daily available recycled water supply from BBID originating from MHCSD Wastewater Treatment Plant and any other supplemental recycled water sources developed by BBID. The water use summary shall include: 1) a narrative that provides sufficient explanations of EAEC daily operating conditions and associated water use, 2) data and associated calculations as specified in Condition of Certification SOILS & WATER 8, and 3) daily recycled water from MHCSD and other recycled water sources available through BBID.

SOILS&WATER 6a: The project owner shall enter into a definitive water supply agreement with BBID setting forth the rates and conditions for water supply. The contract shall specify that BBID shall develop recycled water supplies to the maximum extent feasible and that the project owner shall use the recycled water that BBID makes available. The contract shall be executed prior to the construction of any project structures or facilities and a signed copy submitted to the CPM.

Verification: No later than 60 days prior to the construction of any project structures, the project owner shall submit to the CPM an executed agreement with BBID for water supply to EAEC.

SOILS&WATER 7a: The EAEC project shall include the following specific design features to ensure maximum use of recycled water:

- a) Plant and site piping shall be installed to allow recycled water to be used for cooling tower makeup and landscape irrigation. Cross connection protection between raw, recycled, and potable water systems shall be in accordance with Chapter 19, Backflow Prevention and Cross Connection Control, of Title 22, California Code of Regulations as proposed in the March 20, 2002 Draft Cross Connection Control Regulations.

- b) Systems shall be included to facilitate the feed of a second oxidizing biocide (in addition to sodium hypochlorite) and also a non-oxidizing biocide.

- c) The surface condenser shall be constructed of materials compatible with recycled water.

Verification: At least 60 days prior to the start of construction of each component of the water supply system described above, the project owner shall submit to the CPM its design demonstrating compliance with this condition. Approval of the final design of the water supply and treatment system by the CPM shall be obtained prior to the start of construction of the systems.

Pages 5.14-49, SOILS&WATER-10
Delete in its entirety SOILS&WATER-10.

8.0 REFERENCES

CEC 2002a. East Altamont Energy Center Errata to the Final Staff Assessment. October 1, 2002.

CEC 2002b. Staff Status Report on Workshops and 2nd Errata to the FSA. October 10, 2002.

CEC 2002c. East Altamont Energy Center Additional Errata to Final Staff Assessment/Environmental Assessment. October 15, 2002

CEC 2002d. Staff's Revised Proposed Conditions of Certification SOIL&WATER 5,6, and 7 Contained in the Staff Assessment/Environmental Assessment for East Altamont Energy Center. October 21, 2002.

CEC 2002d East Altamont Energy Center Supplemental Filings. October 25, 2002.

EAEC 2002a Testimony is Support of Application for Certification for the East Altamont Energy Center. October 2002.

EAEC 2002b Applicant's First Post Hearing Brief. 30 October 2002.

EAEC 2002c Applicant's Second Post Hearing Brief. November 4, 2002.

EAEC 2002d Applicant's Third Post Hearing Brief, November 6, 2002.

EAEC 2002e Applicant's Final Reply Brief, November 15, 2002.

EAEC 2002f Air Quality Errata. Evidentiary Hearing Before The California Energy Resources Conservation And Development Commission, October 21, 2002.